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09/982,330	10/18/2001	Robert D. Burgess	BRF-100-B	6594

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EXAMINER

SPISICH, GEORGE D

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 08/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n No.

09/982,330

Applicant(s)

BURGESS, ROBERT D.

Examiner

George D. Spisich

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

The drawings were received on July 7, 2003. These drawings are approved.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 8-10 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Mouws (USPN 6,203,055).

Mouws discloses a vehicle airbag arrestor (1) mountable on a steering column (8) carrying a steering wheel (7) containing an inflatable airbag. The arrestor comprises an enclosure having an open end and a closed end, and the enclosure is mounted over

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a steering wheel and steering column with the closed end adjacent the steering wheel and an attachment member (3) mounted to the enclosure and non-axially, movably mounts the enclosure over the steering wheel and steering column. The attachment member includes a strap (3) disposed about the enclosure and a connector (5) for receiving a free end of the strap (the portion attached to the "base" of the connector away from the hook portion) to releasably tighten the strap and the enclosure about a vehicle steering column using a single hand. It is understood that this device could be tightened with one hand.

The enclosure further comprises a side wall extending from the open end to the opposed closed end. The enclosure is made of Kevlar (see col. 3, lines 25-27).

The attachment member is arranged on the enclosure for one-hand mounting and releasing of the enclosure with respect to the steering column.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Mouws.

Mouws discloses a tightening strap or cord but does not disclose the tightening strap being made of a flexible, ballistic grade material or flexible, ballistic grade NYLON.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the strap/cord out of flexible, ballistic grade NYLON so as to provide a cord of sufficient strength, and since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mouws in view of Berg (USPN 5,832,569).

Mouws has been discussed in the previous rejection. However, Mouws does not disclose a connector comprising a latch movable to and from a first position engaged with strap and a biasing member acting on the latch to bias the latch to the first position.

Berg discloses a strap with a latch connector that receives a free end of the strap to releasably tighten the strap. The latch is movable to and from a first position engaged with the strap and has a biasing member acting on the latch to bias the latch to the first position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the cord (3) and hook (6) tightening and securing arrangement with the strap and latch tightening and securing arrangement as taught by

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Berg so as to provide a strong, secure and easily adjustable means of tightening the enclosure onto the steering column.

### ***Response to Arguments***

With respect to Applicant's argument that Mouws' arrangement is not arranged on the enclosure for one hand tightening, mounting and releasing of the enclosure with respect to the steering column. Examiner disagrees. Stating a device is arranged for one hand tightening, mounting and releasing merely means that the arrangement is able to be mounted with one hand. Clearly, the device of Mouws could be mounted, tightened and released with one hand.

With respect to applicant's argument that in tight confined spaces, there would not usually be sufficient room for the use of two hands to tighten the strap. This is irrelevant. The ability to easily perform a task is not arguable. The mere ability to perform the task is all that is claimed and the Examiner maintains that the arrestor of Mouws is able to be mounted, tightened and released with a single hand. This argument is not commensurate with the scope of the claims

With respect to Applicant's argument that the lockable buckle of Berg is not equivalent to nor a direct substitution for the cord of Mouws. Examiner disagrees and maintains that the substitution of the strap with biasing latch of Berg for the strap and hook of Mouws is obvious and proper. Once the hook and strap of Mouws is replaced

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with the strap and biasing latch of Berg, the airbag arrestor is structurally identical to the Applicant's arrestor.

With respect to applicant's argument that one of ordinary skill in the art, when considering Mouws, would not be lead to make the cord of a flexible ballistic material since Mouws itself, while having the opportunity to use a ballistic material for the cord, neglected to do so. Examiner disagrees and maintains that the rejection of these claims is proper. It is irrelevant that Mouws did not use the ballistic material. The rejection of the claims with this limitation was made as a 103 rejection, and therefore does not rely solely on the reference itself. It is merely stated it would be obvious to one of ordinary skill in the art that a strong strap would be desirable. Once that benefit is known, any known strong material, such as ballistic flexible NYLON or KEVLAR, would be an obvious material for one of ordinary skill in the art to use for the strap.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George D. Spisich whose telephone number is (703) 305-6495. The examiner can normally be reached on Monday to Friday 6:00-3:30 except alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

Gds  
August 26, 2003

  
PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600